

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

|                                |   |                          |
|--------------------------------|---|--------------------------|
| BROADCAST MUSIC, INC., et al., | : | NO. 1:10-CV-00393        |
|                                | : |                          |
| Plaintiffs,                    | : |                          |
|                                | : |                          |
| v.                             | : | <b>OPINION AND ORDER</b> |
|                                | : |                          |
| SHABER, INC., d/b/a            | : |                          |
| O'NEIL'S TAVERN, et al.        | : |                          |
|                                | : |                          |
| Defendants.                    | : |                          |

This matter is before the Court on Plaintiffs' Motion for Default Judgment (doc. 8), to which Defendants filed no response. For the reasons indicated herein, the Court GRANTS Plaintiffs' motion, ENJOINS Defendants from further infringing on the copyrighted material licensed by Plaintiff BMI, and SETS this matter for a hearing on damages.

This case concerns Plaintiffs' allegations that Defendants repeatedly infringed on Plaintiffs' copyrights, despite some 24 written warnings, 77 telephone calls, and five visits by Plaintiffs to Defendants' establishment (doc. 8). Plaintiffs have documented twelve claims of willful copyright infringement by Defendants, who made unauthorized public performances of Plaintiffs' copyrighted material on February 5, 6, and 7, 2010 (Id.).<sup>1</sup> Plaintiffs request injunctive relief, statutory damages,

---

<sup>1</sup>The twelve copyrighted recordings are 1) Beat It, 2) Billie Jean, 3) Don't Stop a/k/a Don't Stop Till You Get Enough, 4) Down, 5) I Want You to Want Me, 6) Inside Out, 7) Jessie's Girl,

costs, and attorney's fees (Id.). Defendants have been served with Plaintiff's Complaint but have failed to plead or otherwise defend this action (doc. 6). Accordingly, pursuant to Fed. R. Civ. P. 55(a) the Clerk entered default against Defendants on August 6, 2010 (doc. 7).

Plaintiffs now move the Court to enter a default judgment awarding them \$3,000.00 for each of the twelve acts of infringement, totaling \$36,000.00 (doc. 8). Plaintiffs further seek attorney's fees amounting to \$3,050.00 pursuant to 17 U.S.C. § 505, interest, and costs, as well as an Order enjoining Defendants from further copyright infringement upon Plaintiffs' copyrighted materials (Id.).

Having reviewed this matter, the Court finds Plaintiffs' motion well-taken and is convinced of Defendants' liability for copyright infringement. The Court finds it appropriate, therefore, to set a hearing on damages, to establish the amount the Court should award Plaintiffs in this matter.

Accordingly, the Court GRANTS Plaintiffs' motion (doc. 8), to the extent that it ENTERS Default Judgment against Defendants, ORDERS pursuant to 17 U.S.C. § 502 that the Defendants and all persons acting under the direction, control, or permission or license of Defendants, be enjoined and restrained permanently

---

8) Talk Dirty To Me, 9) Semi Charmed Life, 10) Tubthumping, 11) Good, and 12) Let It Rock.

from broadcasting or otherwise publicly performing each of the musical compositions licensed by BMI, and SETS a hearing on damages at 3:00 P.M. on October 28, 2010. The Clerk is directed to serve copies of this Order to the Defendants at their addresses, listed on the Complaint, 7466 Beechmont Avenue, Cincinnati, Ohio 45255.

SO ORDERED.

Dated: October 5, 2010

/s/ S. Arthur Spiegel  
S. Arthur Spiegel  
United States Senior District Judge